
Costs Decision

Site visit made on 18 August 2020

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2020

**Costs application in relation to Appeal Ref: APP/V1260/W/20/3251840
Plot R, Land Off Gillett Road, Poole, Dorset. Grid Ref Easting:407271. Grid
Ref Northing: 93330**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Talbot Village Trust for a full award of costs against Bournemouth Christchurch and Poole Council.
 - The appeal was against the refusal of planning permission for erection of a two-storey building for use as a digital exchange, with associated access road, car park, bin store, cycle store, back-up diesel generator and associated works.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance (the Guidance) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Guidance advises that parties who pursue an appeal unreasonably without sound grounds for appeal, may have an award of costs made against them. It confirms that awards against local planning authorities may be either substantive, relating to the planning merits of the appeal, or procedural, having regard to behaviour in relation to completing the appeal process. The applicant is seeking a full award of costs on substantive grounds.
4. Paragraph 049 of the Guidance states that examples of unreasonable behaviour by local planning authorities which may give rise to a substantive award of costs include the failure to produce evidence to substantiate each reason for refusal on appeal.
5. The application for costs essentially relies on the fact that the Council Officers recommended that planning permission be granted for the proposal, but that the Council Members acted unreasonably by taking a different course of action without adequate reasons to do so, resulting in costs arising from the Council's 3 reasons for refusal.
6. Specifically, the applicant cites the costs incurred as a result of the preparation, submission and monitoring of the appeal by the applicant's appointed professional agent, necessitated in response to the Council's first reason for

- refusal in respect of the principle of the proposed development. In this matter, the Members took a contrary view to that contained within the Planning Officer Report to the Planning Committee.
7. The applicant also refers to the costs arising from the production of an Energy Statement and Drainage Strategy by third party specialists in support of the planning appeal to address the Council's second and third reasons for refusal relating to renewable energy sources and sustainable drainage solutions respectively. In this regard, the applicant notes that the Planning Officer was satisfied on these matters, as detailed in the Planning Officer Committee Report, and had not requested further information during the determination of the application. Moreover, the applicant is of the view that the need for further information with regard to these matters, could have been dealt with by means of planning conditions, if considered necessary to make the development acceptable.
 8. In this case I have noted the recommendation of the Council's Officers. However, the decision is one which is a matter of judgement. The Council Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view.
 9. It will be seen from my decision that I do not agree with the Council Members and I have allowed the appeal. However, I am satisfied that the Council has shown that it was able to substantiate its reasons for refusal.
 10. The reasons for refusal as set out in the decision notice are complete, precise, specific and relevant to the application. They also clearly set out the policies of the *Poole Local Plan (2018)* (the Local Plan) against which the proposal would be in conflict. The first reason for refusal has been adequately substantiated by the Council in its Statement of Case. This explains why the Council considers that the proposal would be contrary to Local Plan Policy PP21, having regard to the location of the appeal site within Area TV1.
 11. Having regard to the second and third reasons for refusal, I have no substantive evidence before me that the Planning Committee Members overlooked the sections of the Planning Committee report dealing with these matters. I find that Members were entitled to take a different view from the Planning Officer in respect of renewable energy sources and drainage, having regard to the requirements of Local Plan Policies PP37 and PP38 and the extent of supporting information in respect of these issues submitted with the planning application. Therefore, I do not find that the Council acted unreasonably by including refusal reasons 2 and 3 to address their concerns.
 12. The applicant chose to commission specialist reports to address refusal reasons 2 and 3. Following consideration of the applicant's Energy Statement and Drainage Strategy, the Council confirmed that it was satisfied that these matters were capable of being dealt with by conditions and that it no longer wished to pursue these refusal reasons. I do not find that this constitutes unreasonable behaviour on behalf of the Council.
 13. Accordingly, I find that the Council was entitled to refuse the application and defend the appeal and has not acted unreasonably in so doing.

Conclusion

14. For the above reasons, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated

S Leonard

INSPECTOR